

## **REMARKS**

Claims 13 and 27 are amended. Claims 1-43 remain in the application for consideration. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application.

## Examiner Communication

Applicant thanks the examiner for the time spent on the telephone on Feb. 8, 2007 discussing this application. During the interview, the §101 rejection was discussed as well as the ADS reference discussed below. Applicant explained that the ADS reference describes the inventor's invention. Applicant and Examiner agreed that Applicant would file a Declaration to remove this reference as prior art.

## § 101 Rejections

Claims 13-21 and 27-35 stand rejected under 35 U.S.C. § 101 for, in the Office's opinion, as not being limited to a tangible medium. Specifically, the Office argues that these claims recite a computer-readable media, which is not "tangible" subject matter because Applicant's specification discloses that that computer readable media can encompass a data signal. The Office argues that a signal is not tangible, and therefore the claim is directed to non-statutory subject matter.

While Applicant disagrees with the rejection, Applicant has nonetheless amended claims 13 and 27 to recite that the media is a “storage” media. Support for this amendment can be found in Applicant’s

specification, page 116, line 22 through page 117, line 5. Accordingly, the Office's rejection is traversed.

**§ 102 Rejections**

Claims 13-15, 18-19, 22-23, 25, 27-28, 30-31, 34-40, and 42 stand rejected under 35 U.S.C. § 102(a) as being anticipated by "Image Based Installation of the Operating System and the Cluster Service Using Automated Deployment Services (ADS)", January 1, 2003, Microsoft TechNet (hereinafter "ADS").

**§ 103 Rejections**

Claims 1-2, 4-5, 7-12, 20-21, 26, 29, and 43 stand rejected under §103(a) as being obvious under ADS in view of "Lab: Automated Deployment Services", June 23, 2003. (hereinafter "LAB").

Claims 3 and 6 stand rejected under §103(a) as being obvious under ADS in view of LAB and further in view of "Complete Pre-Upgrade Tasks", March 23, 2003, Microsoft TechNet. (hereinafter "CPUT").

Claims 16, 17, 24, 32, 33 and 41 stand rejected under §103(a) as being obvious under ADS in view of CPUT.

**The ADS Reference**

In making out the rejection of claims 1-43, the Office uses ADS as the primary reference. Applicant submits that the content of ADS is attributable to the inventors of the current application. In § 2132.01 of the MPEP under the heading "APPLICANT CAN REBUT *PRIMA FACIE*

1 CASE BY SHOWING REFERENCE'S DISCLOSURE WAS DERIVED  
2 FROM APPLICANT'S OWN WORK", this section instructs that a  
3 rejection can be "**overcome by submission of a specific declaration by**  
4 **the applicant establishing that the article is describing applicant's own**  
5 **work.** *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982)."

6 Accordingly, Applicant submits herewith a specific declaration that  
7 establishes that the ADS reference describes Applicant's own work. In  
8 light of this declaration, the ADS reference is removed as a reference.

9 Accordingly, claims 1-43 are allowable.

10

11 **Conclusion**

12 All of the claims are in condition for allowance. Accordingly,  
13 Applicant requests a Notice of Allowability be issued forthwith. If the  
14 Office's next anticipated action is to be anything other than issuance of a  
15 Notice of Allowability, Applicant respectfully requests a telephone call for  
16 the purpose of scheduling an interview.

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19 Respectfully submitted,

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21 Dated: 2/14/2007

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